

ORDINANCE NO. 993

AN ORDINANCE REVISING TITLE 12 OF DOUGLAS
MUNICIPAL CODE REGARDING THE REPAIR AND
MAINTENANCE OF CERTAIN PUBLIC PROPERTY

~~BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DOUGLAS,
WYOMING, that:~~

WHEREAS, the Governing Body of the City of Douglas finds and determines that the following changes and clarifications need to be made to the Douglas Municipal Code; and

WHEREAS, consideration has been given to ensure fairness to all City of Douglas residents and make new regulations reasonable.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF DOUGLAS, WYOMING, that:

Section 1. Section 12.04.005 of the Douglas Municipal Code is hereby amended to read as follows and the following sections shall be re-codified:

12.04.005 - Definitions.

- A. For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given in this section:
1. "Applicant" means any person making written application to the city engineer for excavation or street closure permit(s) hereunder.
 2. "Excavation work" means the excavation and other work permitted under an excavation permit and required to be performed under this chapter, and where a trencher, backhoe, boring machine, jackhammer, cable plow, or any other methods or equipment are used to excavate or disturb lands within the right-of-way of a city street as defined herein.
 3. "Improvements" means and includes, but is not limited to water lines, sanitary and storm sewer lines, street lighting, traffic signal systems, traffic signs, topsoil, sod, trees, public utility lines and systems, and street improvements including subgrade, base, pavement or other surfacing, curbs, gutters, medians, sidewalks, and all of the various appurtenances of these improvements.
 4. "Person" means any individual person, partnership, corporation, association, governmental corporation, estate, trust, or two (2) or more individual persons having a joint or common interest.
 5. **"Responsible property owner" means that property owner(s) whose property is adjacent and contingent to the affected property where public improvement repairs are required.**
 6. "Settlement" means any variation of the finished street surface from the testing edge of a ten-foot straight edge between any two (2) contact points with the surface.

7. **“Sidewalk” means any portion of a street between the curb line and the adjacent property line that is improved and intended for use by pedestrians.**
8. "Street" means that portion of an easement of ground designated and dedicated to the public to accommodate a thoroughfare, avenue, road, highway, boulevard, parkway, drive, circle, court, lane, alley, or any similar use within the city.

Section 2. Section 12.04.050 of the Douglas Municipal Code is hereby amended to read as follows and the following sections shall be re-codified:

12-04-040 Permit required for excavations

- C. **Any violation of this section may result in the assessment of a fine of up to seven hundred fifty dollars (\$750.00).**

Section 3. Section 12.04.050 of the Douglas Municipal Code is hereby created to read as follows and the following sections shall be re-codified:

12.04.050 - Permit issuance fee.

- A. **Permit Fees.** A fee of thirty dollars (\$30.00) shall be charged by the city for the issuance of a required excavation permit. Whenever any work for which a permit is required by this chapter has commenced without a permit, a fee of sixty dollars (\$60.00) shall be charged to the applicant by the city. In the event of an emergency arising whereby an excavation is made, and no permit has been issued, then the contractor doing the excavation shall, as soon as possible, report same to the city, not later than the next working day, and secure a permit.

- B. **Completion of work. The Public Works Director shall determine the number of days allowed to complete permitted excavations and/or repairs, not to exceed ninety (90) days unless otherwise authorized by the City Administrator or designee. The Public Works Director shall also ensure inspection of work is completed.**

- C. Prior to the issuance of the permit, at the city's discretion, the contractor **will shall** be required to:

1. File with the ~~community~~ **administrative services** department a corporate surety bond, certified check, or cash deposit in the amount of five thousand dollars (\$5,000.00) or an amount equal to the estimated construction costs, whichever is greater, as a guarantee of faithful performance; or
2. Agree to liquidated damages for delay over the stated or amended completion date in the amount of one hundred fifty dollars (\$150.00) per day if cut is under three hundred (300) feet in length, three hundred dollars (\$300.00) per day if between three hundred (300) and five hundred (500) feet, and five hundred dollars (\$500.00) per day if over five hundred (500) feet in length.

Section 3. Section 12.04.060 of the Douglas Municipal Code is hereby created to read as follows and the following sections shall be re-codified:

12.04.060 Protection of Existing Improvements

- A. The applicant holding the permit for a project shall be responsible for the protection, repair or replacement of all improvements which exist within the

limits of the construction area. ~~For the purposes of this section, the term "improvements" means and includes, but is not limited to the following: water lines, sanitary and storm sewer lines, street lighting, traffic signal systems, traffic signs, topsoil, sod, trees, public utility lines and systems, and street improvements including subgrade, base, pavement or other surfacing, curbs, gutters, medians, sidewalks, and all of the various appurtenances of these improvements.~~

Section 4. Section 12.04.090 of the Douglas Municipal Code is hereby amended to read as follows and the following sections shall be codified.

12.04.090 Time for Completion, Payment, and Appeal.

- A. In the event that the necessary repairs are work ~~is~~ not being accomplished expeditiously in accordance with the time period set forth in the permit, or if the work on an excavation has ceased or is abandoned without due cause, the city may, after ten (10) working days from the date of issuing a certified letter to the holder of the permit so notifying, ~~have city forces~~ correct the work, backfill the excavation, and complete effect all restoration as required by this chapter. The city may employ private contractors to assist in the repair of the public improvement. All costs for the repairs performed ~~by the city crews~~ will be borne by the applicant.
- ~~B.~~ In the event settlement of an excavation occurs within two (2) years of the date of final restoration and the applicant is notified of such settlement or pavement separation, ~~he the applicant~~ shall complete accomplish the required restoration or repair within the time limit specified by the city. Thereafter, if the work has not been completed accomplished, the city may ~~have city forces accomplish the work required~~ complete the restoration or repair, including by employing private contractors to assist in the repair of the settled public improvement.
- C. After compilation of the costs and charges incurred by the city for the repair or restoration of the public improvement(s), the city shall mail by certified mail, return receipt requested to the responsible owner of the property, a statement of the outstanding balance owed by the owner to the city for the repairs or restoration. Such balance shall be due and owing not more than thirty (30) days following the mailing of the notice. ~~The statement shall also include a statement of the rights of the owner to appeal such amounts as have been expended on the repairs within ten (10) business days of the date of mailing.~~
- D. If the owner of the property wishes to contest the amount that was expended on the repairs or restoration, he or she may file a written notice of appeal, in person or by certified mail, with the city clerk within ten (10) business days from the date of mailing of the statement of charges. If no appeal is filed within that period, the appeal shall be deemed waived and the statement amount shall be immediately due and owing to the city.
- E. If the owner files an appeal of the amount owed, then the matter shall be set for hearing with City Council within twenty (20) days from the date the notice is received by the clerk.
- F. In the event ~~the city forces~~ completes repairs or restoration to a public improvement work in accordance with either subsections A or B above, and after exhausting the means available under Sub-Sections 12.04.050 (C) 1 and 2 of this chapter, the entire cost of such repairs or restoration work, based on twice the current average market rate as determined by the city engineer, shall be paid to the city by the applicant of the permit upon demand. If payment is not made within thirty (30) days of the demand, no additional permits shall be issued to the applicant until payment has been made by the

applicant. In addition, the city may proceed to collect any of the costs due and owing in any manner allowed by law, **including but not limited to the following and which shall be in addition to any other penalty imposable under this chapter or any other lawful statute:**

- i. Placing a lien against the property and filed with Converse County;**
- ii. Referral to a collection agency;**
- iii. Reducing costs to judgment; or**
- iv. Making the costs a special assessment or lien on the property involved.**

Section 5. Section 12.04.100 of the Douglas Municipal Code is hereby created to read as follows and the following sections shall be codified:

12.04.100 Applicability and enforcement.

- A. The provisions of this chapter shall apply to all matters affecting or relating to the maintenance of public improvements and the abatement of nuisances relating to public improvements.**
- B. The public works director or designee shall be responsible for enforcing the provisions of this chapter.**

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such inconsistency.

Section 7. If any section, clause or phrase shall be held unconstitutional or invalid, it shall not affect the balance of this ordinance.

Section 8. Douglas Municipal Code Sections 1.04.050, 1.04.060 and 2.08.060 by reference are incorporated herein and made a part hereof.

PASSED AND APPROVED ON FIRST READING this ____ day of _____, 2018.

PASSED AND APPROVED ON SECOND READING this ____ day of _____, 2018.

PASSED, APPROVED, AND ADOPTED on Third and Final Reading this ____ day of _____, 2018.

Bruce A. Jones, Mayor

Attest:

Karen Rimmer, City Clerk

Published:

ATTESTATION

I, Karen Rimmer, the Clerk of the City of Douglas, Wyoming, do hereby attest and state that the above ordinance was published/posted in the manner required by law and that all procedures required by Wyoming State law were complied with.

Karen Rimmer, City Clerk